

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 JESUS RODRIGUEZ RODRIGUEZ,

Case No. 2:19-cv-00257-APG-PAL

5 Plaintiff,

ORDER

6 v.

7 KEVIN SPEEK, et al.,

8 Defendants.
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10 On February 11, 2019, plaintiff Jesus Rodriguez Rodriguez filed an incomplete application
11 to proceed *in forma pauperis* but did not file a complaint. ECF No. 1. On February 22, 2019,
12 Magistrate Judge Leen denied the application to proceed *in forma pauperis* because it was
13 incomplete. ECF No. 3 at 1-2. She ordered Rodriguez to file a complaint and file a fully completed
14 application to proceed *in forma pauperis* or pay the full filing fee of \$400.00 within 30 days from
15 the date of that order. *Id.* at 2. The 30-day period has now expired, and Rodriguez has not filed a
16 complaint, filed another application to proceed *in forma pauperis*, paid the full filing fee, or
17 otherwise responded to the court's order.

18 District courts have the inherent power to control their dockets and “[i]n the exercise of
19 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.
20 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may
21 dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey
22 a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th
23 Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-
61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of
complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply
with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal
Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order);
Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and

1 failure to comply with local rules).

2 In determining whether to dismiss an action for lack of prosecution, failure to obey a court
3 order, or failure to comply with local rules, the court must consider (1) the public's interest in
4 expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of
5 prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and
6 (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d
7 at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

8 Here, the first two factors, the public's interest in expeditiously resolving this litigation and
9 the court's interest in managing the docket, weigh in favor of dismissal. The third factor, risk of
10 prejudice to the defendant, also weighs in favor of dismissal, since a presumption of injury arises
11 from the occurrence of unreasonable delay in filing a pleading ordered by the court or prosecuting
12 an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public
13 policy favoring disposition of cases on their merits – is greatly outweighed by the factors in favor
14 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey the
15 court's order will result in dismissal satisfies the "consideration of alternatives" requirement.
16 *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424.

17 Judge Leen's order requiring Rodriguez to file a complaint and to file another application
18 to proceed *in forma pauperis* or pay the full filing fee within 30 days expressly stated that "if
19 Plaintiff does not timely comply with this order, dismissal of this action may result." ECF No. 3
20 at 2. Thus, Rodriguez had adequate warning that dismissal would result from his noncompliance
21 with the order to file a complaint and to file another application to proceed *in forma pauperis* or
22 pay the full filing fee within 30 days.

23 It is therefore ordered that this action is dismissed without prejudice based on Rodriguez's
failure to file a complaint and his failure to file another application to proceed *in forma pauperis*
or pay the full filing fee in compliance with this court's February 22, 2019 order.

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1 It is further ordered that the Clerk of Court shall enter judgment accordingly.

2 DATED THIS 3rd day of April, 2019.

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5 UNITED STATES DISTRICT JUDGE
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